

**AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY  
MINUTES OF A PUBLIC HEARING**

DATE..... August 25, 2004  
TIME..... 7:00 P.M.  
PLACE..... CO. OFFICE BLDG.  
20 N. 3<sup>RD</sup> STREET  
LAFAYETTE IN 47901

**MEMBERS PRESENT**

Mark Hermodson  
Jean Hall  
Ralph Webb  
Steve Clevenger  
Edward Weast  
Ed Butz

**MEMBERS ABSENT**

Gary Schroeder

**STAFF PRESENT**

Sallie Fahey  
Krista Trout  
Jay Seeger, Attorney  
Bianca Bullock

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 25<sup>th</sup> day of August 2004, at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

Mark Hermodson called the meeting to order.

**I. APPROVAL OF MINUTES**

Jean Hall moved to approve the minutes of July 23, 2004 public hearing. Ed Butz seconded the motion.

The motion carried by voice vote.

**II. NEW BUSINESS**

Sallie Fahey informed the board that **BZA-1669 – SHAWN & STEPHANIE FOSTER** needs to be continued to the December 1, 2004 Area Board of Zoning Appeals public hearing at petitioner's request; **BZA-1670 – ERIC S. & DONNA S. FERGASON** should be continued to the September 22, 2004 Area Board of Zoning appeals public hearing at the petitioner's request; **BZA-1674 – BURKHART SIGN SYSTEM** also needs to be continued to the September 22, 2004 Area Board of Zoning Appeals public hearing because of an incomplete filing. She also said **BZA-1673 – JEFFREY R. & MARY NAGY** will be continued to the September 22, 2004 Area Board of Zoning Appeals public hearing at petitioners' request.

Jean Hall moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the applications to be heard this evening and responses from the checkpoint agencies. Ed Butz seconded and the motion carried by voice vote.

Jean Hall moved to continue **BZA-1670 – ERIC S. & DONNA S. FERGASON**, **BZA-1673- JEFFREY R. & MARY NAGY**, and **BZA-1674 – BURKHART SIGN SYSTEM** to the September 22, 2004 Area Board of Zoning Appeals public hearing and **BZA-1669 – SHAWN & STEPHANIE FOSTER** to the December 1, 2004 Area Board of Zoning Appeals public hearing. Ed Butz seconded and the motion carried by voice vote.

**III. PUBLIC HEARING**

**1. BZA-1672—DAVID P. & MICHELLE K. POUNDS:**

Petitioners are seeking two variances to legitimize a recently constructed deck:

1. To allow a deck to be 2 inches from the side setback instead of the required 4' (UZO 4-4-4(c)); and

2. To allow a 6' front setback from the right-of-way of Walnut Street instead of the required 15' for the home's existing covered porch (the deck is 12' from the front lot line, but petitioners have chosen to legitimize their legally non-conforming house) (UZO 4-2-4);

On property located at 756 Walnut Street (Lot 7 in Horram's Addition) in the Town of Dayton, Sheffield 4(SW)22-3.

Jean Hall moved to hear and vote on the above-described request. Ed Butz seconded the motion.

Krista Trout presented slides of the zoning map, one aerial photo, one site plan and six photos of the property. She read the staff report with recommendation of denial regarding both variance requests.

Michelle Pounds, 756 Walnut Street, Dayton, IN, explained that she and her husband were unaware they were required to obtain an improvement location permit prior to constructing their deck. She also stated that the location of the deck is in such a place as to allow the most convenient access to the house and to preserve mature trees on the property. She also mentioned that their neighbor is not opposed to the deck.

David Pounds, 756 Walnut Street, Dayton, IN, pointed out that there is a chain link fence separating his property and his neighbor's lot line.

Jean Hall asked if the Board passes variance request #1, could a new home be built on the same site with only a 6' front setback.

Krista Trout answered that is correct, but only if the new building has the exact same footprint as the current structure.

Jean Hall asked if the deck in question could also be expanded out into the 6' front setback.

Krista Trout answered negatively. She explained the setback variance only applies to what is currently on the site plan.

Edward Weast said he was concerned about the deck's 2" side setback. He asked for clarification regarding the chain link fence.

David Pounds explained that the deck is constructed completely inside the fence, even though there is only 2" between the end of the deck and the fence.

Jean Hall clarified that when the deck is finished it would be 2" from the fence.

David Pounds answered affirmatively.

Jean Hall asked if variance #2 is granted regarding the front setback, it only applies to the front porch and nothing else can be added to the home that would extend 6' into the front setback.

Sallie Fahey replied affirmatively and explained that the approval extends only to the existing conditions on the site plan. She also said that a new building with the same footprint could have a 6' front setback.

The Board voted by ballot 1 yes to 5 no to deny **BZA-1672 – DAVID P. & MICHELLE K. POUNDS, VARIANCE REQUEST #1.**

Yes Votes

Ed Butz

No Votes

Jean Hall

Steve Clevenger

Ralph Webb

Mark Hermodson

Edward Weast

The Board voted by ballot 3 yes to 3 on **BZA-1672 – DAVID P. & MICHELLE K. POUNDS, VARIANCE REQUEST #2.**

Yes Votes

Edward Weast  
Ralph Webb  
Ed Butz

No Votes

Mark Hermodson  
Steve Clevenger  
Jean Hall

**2. BZA-1675 – CINGULAR WIRELESS:**

Petitioner is seeking a special exception to allow a 265' tall (including the lightning rod) primary communications tower in the Agricultural Wooded zone in an 80' x 80' easement within a 103.881-acre tract located half a mile west of the SR 28/US 231 intersection, Randolph 18(SE)21-4. (UZO 3-2).

Jean Hall moved to hear and vote on the above-described request. Ed Butz seconded the motion.

Krista Trout presented slides of the zoning map, the site plan, 2 aerial photos and 3 photos of the site. She then read the staff report with recommendation of approval.

Todd Thompson, 102 Sunrise Lane, Lizton IN, concurred with the staff report. He also mentioned that the first option for a cell-phone provider is to co-locate with another provider. He explained the need for the tower by demonstrating the gap in coverage between I-74 and Lafayette. He said that, while there were other possible locations that did not require a variance, he felt this location was the most rural and least intrusive, while still meeting the petitioner's needs.

Jean Hall asked if there was no coverage in that area.

Todd Thompson said that the coverage is weak and inconsistent. He then explained the slide of the coverage map.

Bill Pell, 501 SR 28 W, Lafayette, IN said he is concerned about extra buildings on the property.

Mark Hermodson pointed out that if the petitioner sells more space on the tower for other carriers, they would need to build more structures on the property.

Krista Trout clarified the future buildings would be 11.4'x 20' x 10'.

Mark Hermodson asked if the buildings would be about the size of sheds.

Todd Thompson replied affirmatively.

Bill Pell inquired about the added noise from any additional buildings.

Mark Hermodson said any noise would come from a central air conditioning unit on each building.

Todd Thompson explained the air conditioners would be similar to a residential central air conditioning unit.

Ralph Webb asked about the other potential sites for the tower that were mentioned, which did not require a special exception.

Todd Thompson replied that while the other sites did not require a special exception, he felt those sites would have a larger impact on the community.

The Board voted by ballot 6 yes to 0 no to approve **BZA-1675 – CINGULAR WIRELESS.**

Mark Hermodson stated that unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

**IV. ADMINISTRATIVE MATTERS**

*None*

**V. ADJOURNMENT**

Jean Hall moved for adjournment. Ed Butz seconded and the motion carried by voice vote.

The meeting adjourned at 7:45 P.M.

Respectfully submitted,



Bianca Bullock  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director